

### **REMARKS**

Claims 15 to 22 are pending in this application and have been rejected. Applicant has amended these claims, for reasons unrelated to patentability, to incorporate (cancel) claim 1's limitations, upon which claims 15 to 22 depended. Applicant's amendments constitute no new matter. Applicant respectfully traverses the rejections and requests reconsideration of the pending claims.

### **Information Disclosure Statement**

The Examiner has not noted consideration of the information in the information disclosure statement on page 16 of 18 filed on 12/27/01. Applicant believes that this may have been inadvertently omitted in the Advisory Action mailed June 4, 2003. Applicant respectfully requests a copy of the timely information disclosure statement, initialed by the Examiner.

### **Claim Objections**

The Examiner objected to claims 15 to 22 because claims 15 to 22 depended from claim 1. As noted above, Applicant has amended claims 15 to 22 to overcome the objections.

### **35 U.S.C. § 102(b)**

#### **U.S. Patent No. 5,322,839 ("Voegeli")**

Claims 15-16, and 18-22 have been rejected as being anticipated by Voegeli. Applicant traverses this rejection for at least the following reasons.

Voegeli teaches the "care and/or treatment of inflammatory skin diseases[.]" Col. 2, lines 34 and 35. Nothing in Voegeli suggests the use of the invention for other than inflammatory skin diseases. In the present application, claim 15 claims a method of evening skin tone, claim 18 claims a method of evening the texture of the skin, claim 20 claims a method of reducing the

shine and oiliness of the skin, and claim 21 claims a method of treating cellulite. None of these claims is a method of caring or treating inflammatory skin diseases, and therefore claims 15, 18, 20 and 21 are not anticipated by Voegeli.

Claims 16, 19 and 22 have been amended to require a non-fractionated soy product. The Applicant's specification describes soy product, which by definition and without further description, is non-fractionated. As the Examiner noted, Voegeli covers protein fractions (Col. 2, lines 32 and 49) and not non-fractionated soy product. Applicant respectfully asserts that Voegeli cannot anticipate the claims and this rejection has been overcome and should be withdrawn.

U.S. Patent No. 6,323,219 ("Costanzo")

Claims 15 to 22 have been rejected as being anticipated by Costanzo. Applicant has amended the present application to claim priority to Serial No. 09/110,409, filed July 6, 1998, which claims priority from provisional applications Serial No. 60/080,441, filed April 2, 1998 and Serial No. 60/053,942, filed July 28, 1997. The present application was filed before November 29, 2000, and therefore the amendment to claim priority is acceptable under 37 C.F.R. § 1.78(a)(2)(ii)(B). Therefore, Costanzo is no longer prior art under 35 U.S.C. § 102 (e).

35 U.S.C. § 103(a)

Voegeli in view of Costanzo

Claim 17 has been rejected as being unpatentable over Voegeli in view of Costanzo. Applicant traverses this rejection for at least the following reasons.

Voegeli teaches the "care and/or treatment of inflammatory skin diseases[.]" Col. 2, lines 34 and 35. Claim 17 claims a method of depigmenting the skin of a mammal, and not an inflammatory skin disease. Nothing in Voegeli suggests the use of the invention for other than

inflammatory skin diseases, and therefore it would not be obvious to use Voegeli for non-inflammatory skin problems. Additionally, Costanzo has been removed as a piece of prior art, and Voegeli does not teach each and every claim element so the present claim is non-obvious. Applicant respectfully submits that this rejection has been overcome.

### CONCLUSION

Applicant respectfully asserts that the application is in condition for allowance.

Reconsideration and the early issuance of a Notice of Allowance are requested.

If the Examiner has any outstanding issues, kindly contact the undersigned to set up an interview for the purpose of resolving these issues.

### Authorization of Deposit Account

The Commissioner is hereby authorized to charge any fees or credit any overpayment, to Deposit Account 18-0586. This authorization also hereby includes a request for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application.

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

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